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TECHNOLOGY CENTER 2800

In re Application of:
Gary Allen
Serial No.: 10/701,292
Filed: November 3, 2003
Attorney Docket No.: 10559-909001

DECISION ON PETITIONS

This is a decision on the both the petition to reset time period on July 27, 2006 and the petition to withdraw the holding of abandonment filed, via facsimile transmission, on October 23, 2006.

The petitions are **GRANTED**.

The petition to reset the time period filed on July 27, 2006 requested that the time period for payment of the issue fee and publication fee be restarted to run from the July 17, 2006 date of receipt of the Notice of Allowance and Fee(s) Due (hereinafter the Notice of Allowance) at Fish & Richardson P.C. As noted in the petition, the Notice of Allowance that was mailed on March 24, 2006 was received back at the USPTO Mail Center from the U.S. Postal Service on April 3, 2006. Afterwards, although there is no record of remailing in the application file or in PALM (Patent Application Locating and Monitoring System), the Notice of Allowance was apparently remailed and received at Fish & Richardson P.C. on July 17, 2006.

Since the original Notice of Allowance dated March 24, 2006 was clearly returned to the USPTO and there is no date of remailing on record, fairness dictates the period to respond to the Notice of Allowance (i.e., to pay the issue fee and publication fee) be reset to the date the Notice of Allowance was received at the correspondence address (i.e., Fish & Richardson P.C.). As evidenced in the petition, the Notice of Allowance was received at Fish & Richardson P.C. on July 17, 2006. Accordingly, the petition to reset the time period is granted and the issue fee and publication fee was required to have been paid by October 17, 2006 to have been considered timely.

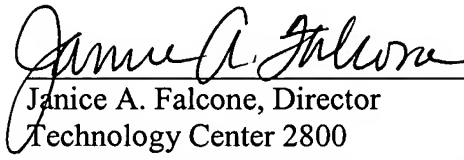
A review of the application file indicates that the issue fee and publication fee was paid on September 12, 2006. However, since there was no decision on the period to reset the time period at that time, a Notice of Abandonment was mailed on September 25, 2006 indicating that the issue fee and publication fee was received on September 12, 2006 but that the payment was not timely. In response to the Notice of Abandonment, applicant filed the aforementioned petition to withdraw the holding of abandonment on October 23, 2006.

Since this decision resets the time period to respond to the Notice of Allowance to run from three months from the date it was received at Fish & Richardson P.C. on July 17, 2006, it follows that

the payment of the issue fee and publication fee on September 12, 2006 was timely and that there was no abandonment of the application. Accordingly, the petition to withdraw the holding of abandonment is granted and the Notice of Abandonment mailed on September 25, 2006 is hereby vacated.

In accordance with this decision, the application is being returned to the purview of the publication branch for processing of the application to a patent.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.



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